

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

ALONZO SMITH,) Case No. 16 C 3404
)
Plaintiff,)
)
v.)
)
JON BURGE, et al.,)
) Chicago, Illinois
) May 22, 2025
Defendants.) 9:33 a.m.

TRANSCRIPT OF PROCEEDINGS - STATUS
BEFORE THE HONORABLE VIRGINIA M. KENDALL

APPEARANCES:

For the Intervenor: LOEVY & LOEVY
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For the Respondent: BURNS NOLAND LLP
BY: MR. TERRENCE M. BURNS
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PROCEEDINGS REPORTED BY STENOTYPE
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1 (Proceedings heard in open court:)

2 THE CLERK: Now calling case number 16 Civil 3404,
3 Smith versus Burge.

4 THE COURT: Good morning.

5 MS. GEISZLER: Good morning, your Honor. Shelley
6 Geiszler for intervenor, Bob Hercules.

7 THE COURT: Good morning.

8 MR. BURNS: Good morning, your Honor. Terry Burns
9 appearing on behalf of Mr. Daley.

10 MR. MICHALIK: Paul Michalik also on behalf of
11 Mr. Daley.

12 THE COURT: Good morning.

13 So now that I've got more fulsome briefing and I have
14 a transcript, I guess I have questions.

15 So let me ask you, is the whole point of getting the
16 deposition -- you want the video deposition? Is that what you
17 want?

18 MS. GEISZLER: Yes, your Honor.

19 THE COURT: And the idea there is if you were to
20 disclose the video deposition, it would show his medical
21 condition? That's what your position is?

22 Isn't it open and public about what the medical
23 condition was at the time?

24 MR. BURNS: If I may?

25 THE COURT: Yes.

1 MR. BURNS: To some limited extent. You saw what
2 Judge Dow did decide to release when he was reviewing this.

3 THE COURT: Yes.

4 MR. BURNS: And there's very limited information.
5 There's so much more, as I know the Court is aware of,
6 extensive information that was provided to her Honor,
7 Judge St. Eve, medical records, reports, testimony, hearings on
8 it. There's so much more than simply --

9 THE COURT: Well, right. I know --

10 MR. BURNS: -- the snippet that came out.

11 THE COURT: I understand all that, but that doesn't
12 really -- going back to you, if you were to get a portion of
13 the video deposition and she were to play that, he's not saying
14 anything about his medical condition, right?

15 So how does that reveal more -- all of this extensive
16 medical briefing that you're discussing?

17 MR. BURNS: I think it does have an impact. It's
18 difficult to take something out of context.

19 One of the comments that you may recall from the
20 briefing that we've seen from the intervenor is this
21 information can be presented, the public can make a decision.

22 THE COURT: Right.

23 MR. BURNS: It would be an impossibility.

24 When you think of what Judge St. Eve went through, the
25 time, the effort, the multiple hearings, to suggest we'll

1 release it with some limited information and the public can
2 decide, that would be an impossibility, your Honor, and I think
3 the record establishes that. There's so much more to it.

4 That deposition --

5 (Brief audio interruption.)

6 THE COURT: Whoever is on WebEx, please mute yourself.
7 We're in the courtroom right now.

8 (Pause.)

9 THE COURT: Thank you.

10 MR. BURNS: And I want to be -- obviously, Judge, if
11 you were to have a hearing on this, the information --

12 (Brief audio interruption.)

13 MR. BURNS: I would hope or at least ask the Court if
14 we could have in chambers some more information can be
15 discussed --

16 THE COURT: Oh, absolutely, absolutely.

17 MR. BURNS: Yes, ma'am.

18 THE COURT: That is not a concern of mine.

19 MR. BURNS: Okay. All right.

20 THE COURT: I guess there's one more piece that I'm
21 going to look at, which is the actual videotape. Can I get a
22 copy of that?

23 MR. BURNS: That may take -- no one has it, Judge.
24 Nobody --

25 THE COURT: Oh, where is it?

1 MR. BURNS: That's back to the original -- it was
2 videotaped by the videographer, and it was sealed at that time.
3 It has never been released to anybody. I don't even have it.

4 THE COURT: Oh, I see. Okay, okay. All right.

5 I'm sorry, I'm not ready to give you a ruling today.
6 I got your new briefing, and I will review it and give you a
7 ruling shortly.

8 MS. GEISZLER: Understood, your Honor.

9 If I may, I -- there's also plaintiff's counsel. Our
10 understanding is that plaintiff's counsel in this case at least
11 has access to the video deposition or a mechanism for obtaining
12 it.

13 THE COURT: How so, if they don't know?

14 MS. GEISZLER: I'm only bringing this up because of
15 our argument that plaintiff's counsel is a willing speaker that
16 we touched on in the briefing and but for the protective order
17 would disseminate the video.

18 So I don't know -- this is the first I'm hearing that
19 nobody has access to the underlying video, so that's -- that's
20 not my understanding.

21 THE COURT: Okay. Is that your understanding?

22 MR. BURNS: We were never given notice of anyone
23 requesting it. It was sealed, Judge. That's why I don't have
24 it, and no one else should have it but the videographer.

25 THE COURT: How would the plaintiff have it?

1 MR. BURNS: If he requested it or did something, it
2 wasn't through notice to us. We would have been given some
3 notice. That's why I maintain my view --

4 MS. GEISZLER: And I certainly don't want to represent
5 that's -- that's true. That's just always been my
6 understanding --

7 THE COURT: Okay.

8 MS. GEISZLER: -- of what I, as the intervenor, third
9 party in the case, without the history that counsel has, you
10 know, that there was a mechanism for the video to be at least
11 reviewed by the Court certainly as part of these proceedings.

12 THE COURT: Can you find out?

13 MS. GEISZLER: Yes, I think we would be able to find
14 out.

15 THE COURT: I mean, I think that is something I would
16 like to know if that's -- if it's out there, right? So if you
17 could just file a supplemental statement when you find out,
18 that would be very helpful.

19 Thank you.

20 MS. GEISZLER: Yeah. And this is all just to go
21 toward the Court having access to it --

22 THE COURT: Right.

23 MS. GEISZLER: -- and then being able to review it.

24 THE COURT: Right. Okay. All right. So I'm not
25 going to give you something today. I'm not ready. But thank

1 you for the newer insights in the more fulsome briefing. Okay?
2 I'll rule shortly.

3 MR. MICHALIK: Your Honor, if I could just reiterate a
4 point Mr. Burns was starting to allude to, if there needs to be
5 further hearing on this matter --

6 THE COURT: *In camera*.

7 MR. MICHALIK: -- it has to be *in camera*.

8 THE COURT: We understand.

9 MR. MICHALIK: Thank you.

10 MS. GEISZLER: And your Honor, would your Honor be
11 reviewing the video prior to ruling on this matter?

12 THE COURT: I don't know if it even exists. To them,
13 it's under seal and they don't have access to it. So I think
14 they're surprised that there is access --

15 MS. GEISZLER: And I don't want to be representing --

16 THE COURT: Right. So that's why --

17 MS. GEISZLER: -- I know that for certain. I'm just
18 saying this -- that's been my understanding.

19 THE COURT: I think we should find out if somebody has
20 access to it, okay? And just let us know, okay?

21 All right. Thanks very much.

22 MULTIPLE SPEAKERS: Thank you.

23 MR. BURNS: Thank you, your Honor. Have a good
24 weekend.

25 THE COURT: You, too.

(Concluded at 9:39 a.m.)

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I certify that the foregoing is a correct transcript of the
record of proceedings in the above-entitled matter.

/s/ GAYLE A. McGUIGAN
GAYLE A. McGUIGAN, CSR, RMR, CRR
Official Court Reporter

May 29, 2025